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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,471	06/29/2001	Scott R. Shell	50037.25US01	6530
27488	7590	08/18/2005	EXAMINER HOM, SHICK C	
MICROSOFT CORPORATION C/O MERCHANT & GOULD, L.L.C. P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			ART UNIT 2666	
PAPER NUMBER				

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/895,471

Applicant(s)

SHELL ET AL.

Examiner

Shick C. Hom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19,22,23 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19,22,23 and 33-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 19, 22-23, and 33-34 have been considered but are moot in view of the new ground(s) of rejection.

### ***Specification***

2. The disclosure is objected to because of the following informalities: in page 5 line 11 delete typo "The may" and insert ---There may---. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 33 and 19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 33 and 19 are directed to a data structure per se and data routing, it merely claims a data structure comprising a header field and a setting field being routed back to the initiator, i.e. a structure that is not tied to any physical structure, and do not fall within any of the four

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statutory classes of new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this

Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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7. Claims 22, 23, 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weghorst et al. (6,775,559) in view of Zhang (2001/0049263).

Regarding claims 22, 23, 34, 35:

Weghorst et al. disclose a mobile device including a computer-readable medium having computer-executable instructions (see col. 1 lines 46-56 which recite the use of software and computer program in a mobile radio network) for performing steps, including: receiving a configuration message including a payload identifying values for a group of settings stored on the mobile device (see col. 4 lines 6-43 which recite the mobile telephone device receiving messages identified as configuration message including payload data serviced by the center for settings stored on the SIM card); passing the payload to a configuration component responsible for maintaining the group of settings; modifying, by the configuration component, the group of settings stored on the mobile device so that they reflect the values identified in the payload (see col. 3 lines 24-37 which recite means for storing configuration settings; means for modifying the configuration data; and means for transmitting and receiving message containing new configuration setting); and returning a response document to an initiator of the

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configuration message, the response document including an indication of the status of the group of settings (see col. 4 lines 11-22 which recite means for retrieving the status of the current setting of the device from the center) as in claims 22, 34, 35.

For claims 22, 23, 34, 35, Weghorst et al. disclose all the subject matter of the claimed invention with the exception of parsing the configuration message to identify the group of settings stored on the mobile device as in claims 34, 35 and identifying which configuration component is responsible for maintaining the group of settings as in claim 35; and wherein the indication of the status of the group of settings indicates that an error occurred while attempting to modify the values for the group of settings as in claim 23.

Zhang from the same or similar fields of endeavor teach that it is known to provide the step of parsing the configuration message to identify the group of settings stored on the mobile device and identifying which configuration component is responsible for maintaining the group of settings and wherein the indication of the status of the group of settings indicates that an error occurred while attempting to modify the values for the group of settings (see paragraphs 0026 and 0044 which recite the configuration setting data being

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provided to each mobile station upon analysis of the performance and error data at the service center clearly reads on the step of parsing configuration message; identifying configuration for maintaining group of settings; and indication of an error).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the step of parsing the configuration message to identify the group of settings stored on the mobile device and identifying which configuration component is responsible for maintaining the group of settings as taught by Zhang et al. in the mobile device of Weghorst et al. The step of parsing the configuration message to identify the group of settings stored on the mobile device and identifying which configuration component is responsible for maintaining the group of settings can be implemented by including the step of parsing and identifying of Zhang in the software program for setting configuring of Weghorst et al. The motivation for using the step of parsing the configuration message to identify the group of settings stored on the mobile device and identifying which configuration component is responsible for maintaining the group of settings as taught by Zhang in the mobile device of Weghorst et al. being that it provides improved automatic mobile station system

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performance monitoring and error reporting to allow for tracking of performance and errors of a mobile station.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Klein discloses auto configuration of portable computers for use in wireless local area networks.

Kirbas et al. disclose a system for automatically configuring features on a mobile telephone based on geographic location.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Monday to Friday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sh



DANG TON  
PRIMARY EXAMINER